



April 1, 2005

ENGROSSED HOUSE BILL No. 1142

DIGEST OF HB 1142 (Updated March 30, 2005 11:55 am - DI 104)

Citations Affected: IC 12-14; IC 12-15.

Synopsis: Life insurance and Burial Expenses in Medicaid. Requires the division of family and children to pay funeral director and cemetery expenses incurred for an individual receiving or certified to receive certain public assistance. Provides that the division has a preferred claim against a decedent's estate that has sufficient assets to pay the funeral director and cemetery expenses. Increases the amount contributed from friends, relatives, and the decedent's estate that the division may not consider in determining the amount to be paid for the funeral director or cemetery expenses. Allows the state to use federal or state Medicaid funds to pay life insurance premiums for a Medicaid recipient or applicant who has assigned the life insurance policy to the state or made the state a beneficiary of the life insurance policy. Requires the office of Medicaid policy and planning to provide certain information to individuals before the assignment of a life insurance policy. Specifies the distribution of the remainder of the insurance proceeds after the state recoups the state's Medicaid expenses for the individual.

Effective: July 1, 2005.

Brown T, Grubb

(SENATE SPONSOR — KENLEY)

January 6, 2005, read first time and referred to Committee on Public Health.

January 19, 2005, reported — Do Pass.

January 25, 2005, read second time, amended, ordered engrossed.

January 26, 2005, engrossed.

January 27, 2005, read third time, passed. Yeas 72, nays 20.

SENATE ACTION

February 14, 2005, read first time and referred to Committee on Health and Provider Services.

March 31, 2005, amended, reported favorably — Do Pass.

EH 1142—LS 6509/DI 104+



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April 1, 2005

First Regular Session 114th General Assembly (2005)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2004 Regular Session of the General Assembly.

ENGROSSED HOUSE BILL No. 1142

A BILL FOR AN ACT to amend the Indiana Code concerning Medicaid.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 12-14-17-2 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. (a) This section
3 applies upon the death of either of the following:

4 (1) A recipient who is receiving supplemental assistance.

5 (2) An aged, blind, or disabled person who at the time of death
6 was certified as eligible to receive medical assistance under
7 Medicaid.

8 (b) ~~Unless otherwise determined by the director, Except as~~
9 **provided in subsection (c)**, the division shall pay six hundred dollars
10 (\$600) for the funeral director's expenses of the decedent if the
11 following conditions exist:

12 (1) The estate of the deceased is insufficient to pay the funeral
13 director's expenses.

14 (2) The individual legally responsible for the burial of the
15 deceased is unable to pay the funeral director's expenses.

16 **(c) If the division determines that the estate of the deceased is**
17 **sufficient to pay all or part of the funeral director's expenses, the**

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division:

(1) shall pay six hundred dollars (\$600) for expenses that the funeral director has incurred; and

(2) may recover the amount paid by the division under this section as a preferred claim from the estate of the deceased.

SECTION 2. IC 12-14-17-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. ~~Unless otherwise determined by the director;~~ (a) Except as provided in subsection (b), in addition to money paid by the division under section 2 of this chapter and even if the deceased or person legally responsible for the deceased possesses a burial lot, the division shall pay four hundred dollars (\$400) for the cemetery's expenses for the deceased to cover the following:

(1) The provision of burial rights if necessary.

(2) The opening and closing of a burial plot and provision of an outer container.

(3) The service required by the cemetery authorities.

(b) If the division determines that the estate of the deceased is sufficient to pay all or part of the cemetery's expenses, the division:

(1) shall pay four hundred dollars (\$400) for expenses that the cemetery has incurred; and

(2) may recover the amount paid by the division under this section as a preferred claim from the estate of the deceased.

SECTION 3. IC 12-14-17-3.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3.5. Except for a claim for the costs and expenses of administration, a claim filed under sections 2(c) and 3(b) of this chapter is a superior claim.

SECTION 4. IC 12-14-17-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. ~~An amount not exceeding~~ The division:

(1) may not consider a combined total of one thousand seven hundred fifty dollars ~~(\$750)~~ (\$1,750) that is contributed by:

~~(1)~~ (A) friends;

~~(2)~~ (B) relatives; and

~~(3)~~ (C) the resources of the deceased; and

(2) may consider any amount that exceeds one thousand seven hundred fifty dollars (\$1,750) contributed by:

(A) friends;

(B) relatives; and

(C) the resources of the deceased;

~~may not be considered~~ when determining the amount to be paid to the

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funeral director for expenses under this chapter. However, the resources of the deceased may not be used if the deceased has prepaid funeral expenses that were excluded as a resource for Medicaid eligibility under IC 12-15-2.

SECTION 5. IC 12-14-17-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. ~~An amount not exceeding~~ **The division:**

(1) ~~may not consider~~ a combined total of ~~two~~ **four** hundred dollars ~~(\$200)~~ **(\$400)** that is contributed by:

~~(1)~~ (A) friends;

~~(2)~~ (B) relatives; and

~~(3)~~ (C) the resources of the deceased; **and**

(2) **may consider any amount that exceeds four hundred dollars (\$400) contributed by:**

(A) friends;

(B) relatives; and

(C) the resources of the deceased;

~~may not be considered~~ when determining the amount to be paid to the cemetery for expenses under this chapter. However, the resources of the deceased may not be used if the deceased has prepaid funeral expenses that were excluded as a resource for Medicaid eligibility under IC 12-15-2.

SECTION 6. IC 12-15-1-20 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 20. **To the extent allowed by federal law, the office may use federal or state funds under the Medicaid program to pay the premiums and other expenses related to a life insurance policy that:**

(1) is owned by an applicant or a recipient; and

(2) either:

(A) is assigned to the state; or

(B) makes the state a beneficiary in an irrevocable election.

The office shall inform an individual before the individual makes an assignment or irrevocable election under this section that the individual may have a life insurance policy with a face value of not more than ten thousand dollars (\$10,000) that provides for the payment of the individual's funeral expenses under IC 12-15-2-17.

SECTION 7. IC 12-15-2-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 17. (a) Except as provided in subsections (b) and (d), if an applicant for or a recipient of Medicaid:

(1) establishes one (1) irrevocable trust that has a value of not

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more than ten thousand dollars (\$10,000), exclusive of interest, and is established for the sole purpose of providing money for the burial of the applicant or recipient;

(2) enters into an irrevocable prepaid funeral agreement having a value of not more than ten thousand dollars (\$10,000); or

(3) owns a life insurance policy with a face value of not more than ten thousand dollars (\$10,000) and with respect to which provision is made to pay not more than ten thousand dollars (\$10,000) toward the applicant's or recipient's funeral expenses;

the value of the trust, prepaid funeral agreement, or life insurance policy may not be considered as a resource in determining the applicant's or recipient's eligibility for Medicaid.

(b) Subject to subsection (d), if an applicant for or a recipient of Medicaid establishes an irrevocable trust or escrow under IC 30-2-13, the entire value of the trust or escrow may not be considered as a resource in determining the applicant's or recipient's eligibility for Medicaid.

(c) **Except as provided under IC 12-15-3-7**, if an applicant for or a recipient of Medicaid owns resources described in subsection (a) and the total value of those resources is more than ten thousand dollars (\$10,000), the value of those resources that is more than ten thousand dollars (\$10,000) may be considered as a resource in determining the applicant's or recipient's eligibility for Medicaid.

(d) In order for a trust, an escrow, a life insurance policy, or a prepaid funeral agreement to be exempt as a resource in determining an applicant's or a recipient's eligibility for Medicaid under this section, the applicant or recipient must designate the office or the applicant's or recipient's estate to receive any remaining amounts after delivery of all services and merchandise under the contract as reimbursement for Medicaid assistance provided to the applicant or recipient after fifty-five (55) years of age. The office may receive funds under this subsection only to the extent permitted by 42 U.S.C. 1396p. The computation of remaining amounts shall be made as of the date of delivery of services and merchandise under the contract and must be the excess, if any, derived from:

(1) growth in principal;

(2) accumulation and reinvestment of dividends;

(3) accumulation and reinvestment of interest; and

(4) accumulation and reinvestment of distributions;

on the applicant's or recipient's trust, escrow, life insurance policy, or prepaid funeral agreement over and above the seller's current retail price of all services, merchandise, and cash advance items set forth in

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the applicant's or recipient's contract.

SECTION 8. IC 12-15-3-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. (a) Except as provided in subsection (b) **and section 7 of this chapter**, an applicant for or recipient of Medicaid is ineligible for assistance if the total cash value of money, stock, bonds, and life insurance owned by:

(1) the applicant or recipient is more than one thousand five hundred dollars (\$1,500) for assistance to the aged, blind, or disabled; or

(2) the applicant or recipient and the applicant's or recipient's spouse is more than two thousand two hundred fifty dollars (\$2,250) for medical assistance to the aged, blind, or disabled.

(b) In the case of an applicant who is an eligible individual, a Holocaust victim's settlement payment received by the applicant or the applicant's spouse may not be considered when calculating the total cash value of money, stock, bonds, and life insurance owned by the applicant or the applicant's spouse.

SECTION 9. IC 12-15-3-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. (a) **Except as provided in section 7 of this chapter**, if the parent of an applicant for or a recipient of assistance to the blind or disabled who is less than eighteen (18) years of age owns money, stock, bonds, and life insurance whose total cash value is more than one thousand five hundred dollars (\$1,500), the amount of the excess shall be added to the total cash value of money, stock, bonds, and life insurance owned by the applicant or recipient to determine the recipient's eligibility for Medicaid under section 1 of this chapter.

(b) However, a Holocaust victim's settlement payment received by the parent of an applicant for or a recipient of assistance may not be added to the total cash value of money, stock, bonds, and life insurance owned by the applicant or recipient to determine the recipient's eligibility for Medicaid under section 1 of this chapter.

SECTION 10. IC 12-15-3-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. **Except as provided in section 7 of this chapter**, if the parents of an applicant for or a recipient of assistance to the blind or disabled who is less than eighteen (18) years of age own money, stock, bonds, and life insurance whose total cash value is more than two thousand two hundred fifty dollars (\$2,250), the amount of the excess shall be added to the total cash value of money, stock, bonds, and life insurance owned by the applicant or recipient to determine the recipient's eligibility for Medicaid under section 1 of this chapter.

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SECTION 11. IC 12-15-3-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. **Except as provided in section 7 of this chapter**, the office may set the total cash value of money, stock, bonds, and life insurance that an applicant for or a recipient of Medicaid may own without being ineligible for Medicaid in cases not described in section 1 of this chapter.

SECTION 12. IC 12-15-3-7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 7. **(a) The total value of a life insurance policy owned by an applicant or a recipient may not be considered as a resource in determining the applicant's or recipient's eligibility for Medicaid if no more premiums are due on the policy and the applicant or recipient:**

(1) makes an irrevocable election to name the state as the beneficiary of the life insurance policy; or

(2) assigns the insurance policy to the state.

(b) The state has an insurable interest in an applicant or a recipient who assigns a life insurance policy to the state or names the state as beneficiary of the life insurance policy under this section.

(c) After the state:

(1) receives payment from a life insurance policy described in subsection (a); and

(2) recoups the state's expenses of providing services under the Medicaid program for the individual;

the remainder of the amount of the policy reverts to the secondary beneficiary of the life insurance policy or, if there is not a secondary beneficiary, to the individual's estate.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Public Health, to which was referred House Bill 1142, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

BECKER, Chair

Committee Vote: yeas 7, nays 4.

 HOUSE MOTION

Mr. Speaker: I move that House Bill 1142 be amended to read as follows:

Page 4, after line 17, begin a new paragraph and insert:

"(c) A Medicaid applicant or recipient who makes an irrevocable election under subsection (a)(1) or an assignment under subsection (a)(2) is entitled to the part of the value of the life insurance policy equal to the positive difference, if any, between:

- (1) the value of the policy at the time of the irrevocable election or assignment; and**
- (2) the value of the policy at the time the proceeds of the policy are distributed.**

(d) The amount of the value of a life insurance policy to which an applicant or recipient is entitled under subsection (c):

- (1) becomes part of the estate of the applicant or the recipient;**
- (2) is not recoverable by the office; and**
- (3) may not be considered a resource in determining Medicaid eligibility for the applicant or the recipient."**

(Reference is to HB 1142 as printed January 20, 2005.)

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COMMITTEE REPORT

Madam President: The Senate Committee on Health and Provider Services, to which was referred House Bill No. 1142, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 12-14-17-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. (a) This section applies upon the death of either of the following:

- (1) A recipient who is receiving supplemental assistance.
- (2) An aged, blind, or disabled person who at the time of death was certified as eligible to receive medical assistance under Medicaid.

(b) ~~Unless otherwise determined by the director,~~ **Except as provided in subsection (c),** the division shall pay six hundred dollars (\$600) for the funeral director's expenses of the decedent if the following conditions exist:

- (1) The estate of the deceased is insufficient to pay the funeral director's expenses.
- (2) The individual legally responsible for the burial of the deceased is unable to pay the funeral director's expenses.

(c) If the division determines that the estate of the deceased is sufficient to pay all or part of the funeral director's expenses, the division:

- (1) shall pay six hundred dollars (\$600) for expenses that the funeral director has incurred; and**
- (2) may recover the amount paid by the division under this section as a preferred claim from the estate of the deceased.**

SECTION 2. IC 12-14-17-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. ~~Unless otherwise determined by the director,~~ **(a) Except as provided in subsection (b),** in addition to money paid by the division under section 2 of this chapter and even if the deceased or person legally responsible for the deceased possesses a burial lot, the division shall pay four hundred dollars (\$400) for the cemetery's expenses for the deceased to cover the following:

- (1) The provision of burial rights if necessary.
- (2) The opening and closing of a burial plot and provision of an outer container.
- (3) The service required by the cemetery authorities.

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(b) If the division determines that the estate of the deceased is sufficient to pay all or part of the cemetery's expenses, the division:

- (1) shall pay four hundred dollars (\$400) for expenses that the cemetery has incurred; and
- (2) may recover the amount paid by the division under this section as a preferred claim from the estate of the deceased.

SECTION 3. IC 12-14-17-3.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 3.5. Except for a claim for the costs and expenses of administration, a claim filed under sections 2(c) and 3(b) of this chapter is a superior claim.**

SECTION 4. IC 12-14-17-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 4. An amount not exceeding The division:**

- (1) **may not consider** a combined total of **one thousand seven hundred fifty dollars (\$1,750)** that is contributed by:
 - (1) ~~(A)~~ friends;
 - (2) ~~(B)~~ relatives; and
 - (3) ~~(C)~~ the resources of the deceased; and
- (2) **may consider any amount that exceeds one thousand seven hundred fifty dollars (\$1,750) contributed by:**
 - (A) friends;
 - (B) relatives; and
 - (C) the resources of the deceased;

~~may not be considered~~ when determining the amount to be paid to the funeral director for expenses under this chapter. However, the resources of the deceased may not be used if the deceased has prepaid funeral expenses that were excluded as a resource for Medicaid eligibility under IC 12-15-2.

SECTION 5. IC 12-14-17-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 5. An amount not exceeding The division:**

- (1) **may not consider** a combined total of ~~two~~ **four** hundred dollars ~~(\$200)~~ **(\$400)** that is contributed by:
 - (1) ~~(A)~~ friends;
 - (2) ~~(B)~~ relatives; and
 - (3) ~~(C)~~ the resources of the deceased; and
- (2) **may consider any amount that exceeds four hundred dollars (\$400) contributed by:**
 - (A) friends;
 - (B) relatives; and
 - (C) the resources of the deceased;



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~~may not be considered~~ when determining the amount to be paid to the cemetery for expenses under this chapter. However, the resources of the deceased may not be used if the deceased has prepaid funeral expenses that were excluded as a resource for Medicaid eligibility under IC 12-15-2."

Page 1, between lines 10 and 11, begin a new line blocked left and insert:

"The office shall inform an individual before the individual makes an assignment or irrevocable election under this section that the individual may have a life insurance policy with a face value of not more than ten thousand dollars (\$10,000) that provides for the payment of the individual's funeral expenses under IC 12-15-2-17."

Page 4, line 10, after "if" insert **"no more premiums are due on the policy and"**.

Page 4, delete lines 18 through 31, begin a new paragraph and insert:

"(c) After the state:

(1) receives payment from a life insurance policy described in subsection (a); and

(2) recoups the state's expenses of providing services under the Medicaid program for the individual;

the remainder of the amount of the policy reverts to the secondary beneficiary of the life insurance policy or, if there is not a secondary beneficiary, to the individual's estate."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1142 as reprinted January 26, 2005.)

MILLER, Chairperson

Committee Vote: Yeas 7, Nays 0.

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